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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

<p>ENGINEERED ROOF DE-ICING INC., a Utah Limited Liability Company</p> <p>Plaintiff,</p> <p>v.</p> <p>VALIN CORPORATION, a California Corporation</p> <p>Defendant.</p>	<p>Case No. 2:20-cv-00181-DBB-JCB</p> <p>DEFENDANT AND COUNTERCLAIMANT VALIN CORPORATION’S APPLICATION FOR ENTRY OF DEFAULT AS TO PLAINTIFF AND CROSS-DEFENDANT ENGINEERED ROOF DE-ICING, INC.</p> <p>District Judge David Barlow Magistrate Judge Jared C. Bennett</p>
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Defendant and Counterclaimant Valin Corporation (“Valin”) requests an entry of default in the above-captioned matter (the “Action”) as to its Counterclaims against Plaintiff and Cross-Defendant Engineered Roof De-Icing, Inc.’s (“Engineered”), pursuant to Rule 55 of the Federal

Rules of Civil Procedure. This application is based upon the accompanying Declaration of Daniel J. Marsh, which establishes that:

1. Engineered filed its initial Complaint in this Action on March 17, 2020 ([Docket No. 1](#));
2. On April 15, 2020, Engineered and Valin filed a joint stipulation extending the time for Valin to file a response to the Engineered's Complaint ("Stipulation") ([Docket No. 8](#));
3. On April 16, 2020, the Court issued an order granting the Parties' Stipulation and set the deadline for Valin to respond to Engineered's Complaint to May 26, 2020 ([Docket No. 9](#));
4. Valin filed its Motion to Dismiss Engineered's Complaint on May 26, 2020 ([Docket No. 16](#));
5. On June 16, 2020, Engineered filed its First Amended Complaint in this Action ([Docket No. 18](#));
6. On June 26, 2020, Valin filed its Withdrawal of its Motion to Dismiss ([Docket No. 19](#));
7. On June 30, 2020, in accordance with Federal Rule of Civil Procedure 5 (Service and Filing of Pleadings and Other Papers) and Rule 5-1 of the Civil Local Rules of the U.S. District Court for the District of Utah (Filing of Papers), Valin properly filed and served Engineered with its Answer to Engineered's First Amended Complaint and its Counterclaim against Engineered ([Docket No. 21](#));
8. Engineered's response to Valin's Counterclaim was due on July 21, 2020;
9. On July 8, 2020, counsel for Engineered filed a Motion to Withdraw as Counsel ([Docket No. 22](#));

10. On July 9, 2020, the Court issued its order granting counsel for Engineered's Motion for Withdrawal of Counsel ("Order") ([Docket No. 23](#));

11. The Court's Order stayed this Action for twenty-one (21) days to allow Engineered to appoint new counsel and appear in this Action ([Docket No. 23](#));

12. By the terms of the Court's Order, the twenty-one (21) day stay in this Action was lifted on July 30, 2020 ([Docket No. 23](#));

13. Pursuant to the Court's Order, Engineered's deadline to file a response to Valin's Counterclaim was August 11, 2020, twelve (12) days from the date the stay was lifted;

14. Engineered failed to answer, plead, or otherwise respond to Valin's Counterclaim;

15. Engineered did not request an extension of time to respond to Valin's Counterclaim, and for this reason, Valin has not granted any extension of time for Engineered to respond to the Counterclaim; and

16. The applicable time limit for Engineered to respond to the Counterclaim has expired.

Dated: August 12, 2020.

Respectfully Submitted,

MASCHOFF BRENNAN

By: /s/ Jared J. Braithwaite

Jared J. Braithwaite

HOGUE, FENTON, JONES & APPEL, INC.

Shella Deen

Daniel J. Marsh

Attorneys for Defendant Valin Corporation

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing, **DEFENDANT AND COUNTERCLAIMANT VALIN CORPORATION'S APPLICATION FOR ENTRY OF DEFAULT AS TO PLAINTIFF AND CROSS-DEFENDANT ENGINEERED ROOF DE-ICING, INC.**, was served on August 12, 2020, via U.S. Mail, to Plaintiff Engineered Roof De-Icing Inc.'s registered agent and to Engineered Roof De-Icing Inc. at its registered business address as also stated as its address in its First Amended Complaint (*See Docket No. 18* at ¶ 1) as follows:

Heather Gurr
Registered Agent
Engineered Roof De-Icing Inc.
11239 Midas View Circle
South Jordan, UT 84095

Engineered Roof De-Icing Inc.
9531 South 560 West
Sandy, UT 84070

/s/ Abigail Alvey